

REMARKS

This is a full and timely response to the outstanding non-final Office Action mailed September 11, 2002. Claims 1-22 were rejected under 35 U.S.C. 103(a) as being allegedly unpatentable over U.S. Patent No. 5,828,886 (*Hayashi*) in view of U.S. Patent No. 6,314,510 (*Saulsbury et al*). Claims 1-22 have been cancelled and claims 23-45 have been added. Reconsideration and allowance of the application and presently pending claims are respectfully requested.

I- Independent claim 23

Claim 23 is patentable over the cited references for at least the reason that the cited references do not disclose, teach, or suggest "using the one or more unused bits to pass information to the post-compile-time software application."

II- Dependent claims 24-29

New dependent claims 24-29 are patentable over the cited references for at least the reason that each of the claims 24-29 includes all the limitations of claim 23 from which claims 24-29 depend, and which has been shown to be patentable over the cited references.

III- Independent claim 30

Claim 30 is patentable over the cited references for at least the reason that the cited references do not disclose, teach, or suggest "a code annotator that is configured to find one or more unused bits in an instruction in one of the plurality of blocks of code that are compiled by the compiler, and to encode information in the one or more unused bits; wherein the information is configured to be used by a post-compile-time software application."

IV- Dependent claims 31-35

New dependent claims 31-35 are patentable over the cited references for at least the reason that each of the claims 31-35 includes all the limitations of claim 30 from which claims 31-35 depend, and which has been shown to be patentable over the cited references.

V- Independent claim 36

Claim 36 is patentable over the cited references for at least the reason that the cited references do not disclose, teach, or suggest “means for using the one or more unused bits to pass information to a post-compile-time software application.”

VI- Dependent claims 37-39

New dependent claims 37-39 are patentable over the cited references for at least the reason that each of the claims 37-39 includes all the limitations of claim 36 from which claims 37-39 depend, and which has been shown to be patentable over the cited references.

VII Independent claim 40

Claim 40 is patentable over the cited references for at least the reason that the cited references do not disclose, teach, or suggest “encoding information in the one or more unused bits; and using the information by a post-compile-time software application.”

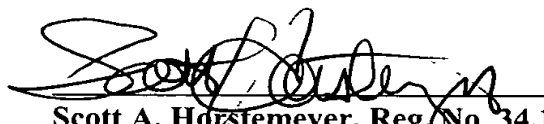
VIII- Dependent claims 41-45

New dependent claims 41-45 are patentable over the cited references for at least the reason that each of the claims 41-45 includes all the limitations of claim 40 from which claims 41-45 depend, and which has been shown to be patentable over the cited references.

CONCLUSION

In light of the foregoing and for at least the reasons set forth above, Applicants respectfully submit that all rejections have been rendered moot, and that the now pending claims 23-45 are in condition for allowance. Favorable reconsideration and allowance of the present application and all pending claims are hereby courteously requested. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Respectfully submitted,


Scott A. Horstemeyer, Reg. No. 34,183

Thomas, Kayden, Horstemeyer & Risley, L.L.P.
100 Galleria Parkway, NW, Suite 1750
Atlanta, GA 30339-5948
Telephone: 770-933-9500
Fax: 770-951-0933